

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE BOARD OF NURSING

In the Matter of Donna J. Kreye, L.P.N., License No. 45046-9	<b>FINDINGS OF FACT, CONCLUSIONS, AND RECOMMENDATION</b>
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This matter came was scheduled for a telephone prehearing conference before Administrative Law Judge Steve M. Mihalchick at 1:30 p.m. on September 21, 2010. Karen B. Andrews, Assistant Attorney General, appeared for the Board of Nursing Review Panel (the Review Panel). Donna J. Kreye (Respondent) did not appear in person or by counsel. She did call the Board of Nursing office earlier that day and indicated that she was choosing not to appear. She did not contact the Administrative Law Judge to request a continuance of this matter. Based upon Respondent's failure to appear, the Review Panel has requested a Default Recommendation.

**NOTICE**

This report is a recommendation, not a final decision. The Minnesota Board of Nursing will make the final decision after a review of the record and may adopt, reject or modify these Findings of Fact, Conclusions, and Recommendation. Under Minnesota Statute Section (Minn. Stat. §) 14.61, the Board shall not make a final decision until this Report has been made available to the parties for at least ten days. The parties may file exceptions to this Report and the Board must consider the exceptions in making a final decision. Parties should contact the Board at the 2829 University Ave SE, Suite 200, Minneapolis, MN 55414, or telephone 612-617-2281, to learn the procedure for filing exceptions or presenting argument.

If the Board fails to issue a final decision within 90 days of the close of the record, this report will constitute the final agency decision under Minn. Stat. § 14.62, subd. 2a. The record closes upon the filing of exceptions to the report and the presentation of argument to the Board, or upon the expiration of the deadline for doing so. The Board must notify the parties and the Administrative Law Judge of the date on which the record closes.

Pursuant to Minn. Stat. § 14.62, subd. 1, the Board is required to serve its final decision upon each party and the Administrative Law Judge by first class mail or as otherwise provided by law.

## **STATEMENT OF ISSUES**

1. Did Respondent violate Minn. Stat. § 148.261, subd. 1(2), by being convicted during the previous five year of a felony or gross misdemeanor reasonably related to the practice of nursing?
2. Did Respondent violate Minn. Stat. § 148.261, subd. 1(5), by failing or by inability to perform nursing with reasonable skill and safety?
3. Did Respondent violate Minn. Stat. § 148.261, subd. 1(6), by engaging in unprofessional conduct, including failure to conform to minimal standards of acceptable and prevailing nursing practice?
4. Did Respondent violate Minn. Stat. § 148.261, subd. 1(11), by engaging in unethical conduct, including conduct likely to deceive, defraud, or harm the public, or demonstrating a willful or careless disregard for the health, welfare, or safety of a patient?
5. Did Respondent violate Minn. Stat. § 148.261, subd. 1(18), by violating a rule adopted by the Board, an order of the Board, or a state or federal law relating to the practice of professional ,advance practice registered, or practical nursing , or a state or federal narcotics or controlled substance law?
6. Is the Board justified in taking disciplinary action against Respondent?

Based upon all of the proceedings herein, the Administrative Law Judge makes the following:

## **FINDINGS OF FACT**

1. On August 10, 2010, the Notice and Order for Prehearing Conference and Hearing in this matter was served by first class mail upon Respondent at her last known address on file with the Board of Nursing. It notified Respondent of the Prehearing Conference scheduled for September 21, 2010, at 1:30 p.m. at the Board office. The Notice and Order for Prehearing Conference and Hearing was not returned to the Review Panel as refused or not deliverable.
2. The Notice and Order for Prehearing Conference and Hearing informed Respondent that if she failed to appear at the Prehearing Conference a default order could be issued, the allegations against her set forth in the Notice and Order for Prehearing Conference and Hearing could be taken as true, its proposed action could be upheld. It also informed her that the disciplinary action in this matter could include revocation, suspension, or other actions authorized by Minn. Stat. §§ 148.261 and 148.262.

3. Respondent did not file a Notice of Appearance with the Administrative Law Judge or make any request for a continuance or any other relief.

4. On September 21, 2010, Respondent called the Board of Nursing office and indicated that she had chosen not to appear for the prehearing conference. At 1:30 p.m. on September 21, 2010, failed to appear at the Prehearing Conference, either by telephone or in person, either personally or through counsel.

5. The Review Panel has requested that the Administrative Law Judge issue a default recommendation.

6. Because Respondent failed to appear as ordered, she is in default. Pursuant to Minnesota Rule (Minn. R.) 1400.6000, the allegations contained in the Notice and Order for Prehearing Conference and Hearing are hereby taken as true and incorporated into these Findings of Fact.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

### **CONCLUSIONS**

1. The Board of Nursing and the Administrative Law Judge have jurisdiction in this matter pursuant to Minn. Stat. §§ 14.50, 148.261, 214.10 and 214.103.

2. The Board has given proper notice of the hearing in this matter and has fulfilled all procedural requirements of law and rule.

3. Respondent, having made no appearance at the hearing and having not requested any continuance or other relief, is in default. Pursuant to Minn. R. 1400.6000, the allegations contained in the Notice and Order for Prehearing Conference and Hearing are hereby taken as true.

4. Respondent violated Minn. Stat. § 148.261, subd. 1(2), by being convicted during the previous five year of a felony or gross misdemeanor reasonably related to the practice of nursing.

5. Respondent violated Minn. Stat. § 148.261, subd. 1(5), by failing or by inability to perform nursing with reasonable skill and safety.

6. Respondent violated Minn. Stat. § 148.261, subd. 1(6), by engaging in unprofessional conduct, including failure to conform to minimal standards of acceptable and prevailing nursing practice.

7. Respondent violated Minn. Stat. § 148.261, subd. 1(11), by engaging in unethical conduct, including conduct likely to deceive, defraud, or

harm the public, or demonstrating a willful or careless disregard for the health, welfare, or safety of a patient.

8. Respondent violated Minn. Stat. § 148.261, subd. 1(18), by violating a rule adopted by the Board, an order of the Board, or a state or federal law relating to the practice of professional ,advance practice registered, or practical nursing , or a state or federal narcotics or controlled substance law.

9. Respondent's conduct constitutes grounds for the Board to take disciplinary action.

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

### **RECOMMENDATION**

IT IS HEREBY RESPECTFULLY RECOMMENDED that the Board take disciplinary action against Respondent Donna J. Kreye, L.P.N.

Dated: October 5, 2010

/s/ Steve M. Mihalchick

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STEVE M. MIHALCHICK  
Administrative Law Judge

Reported: Default, not recorded.